

The York County Board of Commissioners met according to law on April 21, 2009 at 9:35 a.m. as per notice in the York News Times on April 16, 2009, with Augustus M. Brown Jr. presiding, with Eugene Bergen, Steve Neujahr, Kurt Bulgrin, and Pat Bredenkamp. Also present were Ann Charlton, County Assessor and Melanie Wilkinson, correspondent for the York News Times.

The agenda of the meeting was posted on the bulletin board in the County Clerk's office and a copy of the agenda was made available to each Commissioner.

Brown announced that the Open Meetings Law was posted on the outside of the door and copies were available in the back of the board room.

The Board met with Elected Officials and Department heads prior to the regular meeting. No action was taken.

Moved by Bulgrin, seconded by Bredenkamp to approve the minutes of the April 7, 2009 Board of Commissioners meeting; roll call: yeas, Bulgrin, Bredenkamp, Neujahr, Bergen and Brown; nays, none; motion carried.

Moved by Neujahr, seconded by Bergen to adopt the agenda for April 21, 2009 as presented; roll call: yeas, Neujahr, Bergen, Bulgrin, Bredenkamp and Brown; nays, none; motion carried.

General Assistance cases were reviewed:

Moved by Neujahr, seconded by Bergen to approve Case #09-14 for utilities payable to NPPD in the amount of \$233.00; roll call: yeas, Neujahr, Bergen, Bredenkamp, Bulgrin and Brown; nays, none; motion carried.

Moved by Bredenkamp, seconded by Bulgrin to approve Case #09-16 for utilities payable to NPPD in the amount of \$84.75; roll call: yeas, Bredenkamp, Bulgrin, Bergen, Neujahr and Brown; nays, none; motion carried.

An additional claim was reviewed from Hitz Towing for storage in the amount of \$36,072.00. This is a result of the storage costs to hold a vehicle for the Public Defender's client for investigation following an accident.

Moved by Bulgrin, seconded by Neujahr; to approve payroll in the amount of 112,210.60 and vendor claims including the one from Hitz Towing which would be paid out of Miscellaneous General as presented and to direct the County Treasurer to transfer money from the specifically designated county funds to the Imprest Account Fund; roll call: yeas, Bulgrin, Neujahr, Bredenkamp, Bergen and Brown; nays, none; motion carried.

Legend

General – Gen
Road – Rd

<u>Fund</u>	<u>Name</u>	<u>Description</u>	<u>Total</u>
Rd	Ace Irrigation and Mfg	Culverts	1,998.80
Gen	Adams County Sheriff	Court Costs	16.50
Data Proc	Automated Systems	Data Proc Equip	1,012.77
Aging	Bag N Save	Supplies	21.90
Gen	Bob Barker Company, Inc.	Supplies	33.05
Rd	Barrett Bros. Inc.	Repair Parts	119.60
Gen	Big Red Printing	Office Supplies	112.40
Gen	Stephanie Boring	Reimbursement	7.48
Gen	Marjorie Braman	Retirement	11.00
State Inst.	Bryan LGH Medical Center West	Medical Services	791.97
Gen	Business Telecommunication Systems	Office Equip	264.00
Rd	Car Parts Inc.	Repair Parts	96.59
Gen	Centec Cast Metal Products	Grave Markers	665.45
Gen	Ann Charlton	Mileage/Reimbursement	701.81
Gen	Gary Charlton	Retirement	11.00
Gen	Clerk of the Supreme Court	Court Costs	122.00
Gen	Mark V. Contatore	Mileage	15.40
Data Proc	Cornerstone Bank	Data Proc Equip	56.60
Gen	Creighton University Med Center	Autopsy Costs	138.00
Weed	Crop Production Services	Weed Control	61.50
Gen	Cross-Dillon Tire	Tires	510.88
Data Proc	Donna's Computer Sales & Service	Data Proc Equip	23.50
Gen	John A Dotson	Court Costs	444.60
Gen, Rd	Eakes Office Plus	Office Supplies	1,070.23
Rd	Farm Plan	Repair Parts	20.19
Rd	Fastenal Industrial & Const Supply	Repair Parts	13.30
Gen	Great Plains Pest Management, Inc.	Building Maintenance	48.00
Gen	Michael Hanke	Court Costs	20.00
Gen	Harry Hecht	Retirement	16.00
Rd	Hireright Solutions Inc.	Safety Equip	363.30
Gen	Hitz Towing, Inc.	Storage Costs	36,148.00
Gen	Home Care Plus	Nurse Visits	114.00
Gen	Hometown Leasing	Office Equip	397.48
Rd	Husker Steel	Steel	7,555.68
Gen	Hy-Tec Auto Service	Vehicle Maintenance	15.82
Rd	Inland Truck Parts & Service	Repair Parts	270.33
Rd	Island Supply Welding	Repair Parts	156.86
Gen	Jack's Uniforms & Equipment	Uniform Allowance	106.39
Gen, Rd	Jackson Services Inc.	Building Maintenance	158.76
Gen	John Kohl Quick Lube	Vehicle Maintenance	31.95
Gen	Chad Kennedy	Court Costs	20.00
Gen	Lancaster County Youth Services Cntr	Juvenile Care Costs	11,564.00
Gen	LaRue Distributing, Inc.	Supplies	35.98
Rd	Lyle Signs, Inc.	Signs & Posts	1,153.70
Gen	Malouf & Associates	Janitorial Supplies	748.21
Gen	Maximus, Inc.	Preparation Labor	1,725.91

Rd	Mead Lumber & Rental-York	Concrete	17.34
Gen	Mogul's Transmission, Inc.	Vehicle Maintenance	527.47
Rd	Moses Motor Co.	Vehicle Repair	1,097.77
Gen	Ronnie J Naber	Court Costs	20.00
Gen	Ne Dept of Motor Vehicles	Court Costs	24.00
State Inst.	Ne Health and Human Services	Hospitalization	279.00
Drug Test	Ne Public Health Environmental Lab	Drug & Alcohol Test	84.00
Employment			
Sec	Ne Workforce Development	Unemployment Payment	19,558.36
Rd	NMC Exchange LLC	Repair Parts	13,478.53
Aging	Anita Norquest	Mileage/Reimbursement	238.00
Gen	North Office Supply	Office Supplies	78.52
Weed	NWCA Region 4	Dues	15.00
Gen, Rd	Pamida Stores Operation Co LLC	Supplies	92.67
Rd	Penner's Tire & Auto, Inc.	Supplies	204.16
Gen	Perennial Public Power District	Electricity	86.81
Gen	Platte Valley Communications	Supplies	293.21
Gen	PTS of America, LLC	Transportation Fees	2,014.16
Gen, Rd,			
Weed	Rasmussen Auto Parts	Supplies	169.36
Gen	Melvin Reetz	Retirement	12.00
Gen	Secretary of State, Rules & Regulations	Court Costs	20.00
Gen	Seward County Sheriff	Court Costs	24.72
Rd	Snap-On Tools	Shop Tools	318.63
Gen	Stahr and Associates	Contract	1,700.00
Gen	Stanard Appraisal Service Inc.	Appraiser's Fees	123.75
Gen	State of Nebraska/Correctional Svcs	Safekeeper Billing	2,689.84
Gen	Bruce Stephens	Attorney Fees	892.50
Gen	University of Nebraska	Internet	600.00
Rd	Village of McCool Junction	Water/Sewer	33.50
Rd	L.J. Webb Contractor, Inc.	Steel Products	1,107.00
Gen	West Payment Center	Supplies	38.85
Gen, Rd,			
Aging,			
Relief	Windstream (Long Distance)	Telephone Service	171.99
Gen, 911	Windstream Communications	Telephone Service	1,134.04
Gen	JS Wurm & Associates	Court Costs	617.20
Gen	York County Court	Court Costs	2.00
Gen, Weed	York County Highway Dept.	Fuel	498.55
Gen	York County Sheriff	Unpaid Fees	1,705.96
Gen	York County Treasurer	Property Taxes	36.98
Rd	York Farm Supply LLC	Repair Parts	31.00
Gen, Drug			
Test	York General Hospital	Drug Test/Physical Cap	564.00
Gen, Rd,			
Aging	York News-Times	Publications	2,147.03
Gen	York Printing Company, LLC	Office Supplies	417.70
Gen	Zee Medical Service	Supplies	22.85

There were no interfund transfers to be brought before the board.

On April 7, 2009, Resolution #09-20 was adopted which addressed safety issues within the courthouse and other county owned buildings. After discussion, it was determined that an amendment should be made to the resolution which would address use of candles within the buildings.

Moved by Bulgrin, seconded by Neujahr to approve Resolution #09-20; roll call for the original motion: yeas, Bulgrin, Neujahr, Bergen, Bredenkamp and Brown; nays, none; motion carried.

Moved by Bulgrin, seconded by Neujahr to amend the motion to include **item #6. Use of candles/open flames are strictly prohibited;** roll call: yeas, Bulgrin, Neujahr Bergen, Bredenkamp and Brown; nays, none; motion carried.

The Board has been advised that Roger Morris, Rex Heiden, Albert Kliewer and Tom Luethje's term on the Planning and Zoning Board is due to expire on May 1, 2009. Chairman Brown stated that all were willing to serve with the exception of Luethje. Jason Hirschfeld has been contacted and consented to serve if appointed. Also, in order to establish a rotation whereby two board members terms would expire every two years.

Moved by Bergen, seconded by Bulgrin to adopt Resolution #09-23 to reappoint Roger Morris and Rex Heiden to a two year term and Albert Kliewer and Jason Hirschfeld to a three year term; roll call: yeas, Bergen, Bulgrin, Neujahr, Bredenkamp and Brown; nays none; motion carried.

RESOLUTION #09-23

WHEREAS, the terms of Roger Morris, Rex Heiden, Albert Kliewer and Tom Luethje, Members of the Planning and Zoning Commission will terminate on May 1, 2009; and

WHEREAS, the York County Board of Commissioners has been made aware that Tom Luethje has declined renomination; and

WHEREAS, the York County Board has been advised that Jason Hirschfeld is willing to serve on the Planning and Zoning Commission; and

WHEREAS, Roger Morris, Rex Heiden and Albert Kliewer have consented to serve another term, and further that the Board of Commissioners feels that it would appropriate to reappoint said Roger Morris, Rex Heiden and Albert Kliewer; and

WHEREAS, the Board finds it necessary at this time to set the member's terms to allow them to expire in an alternating pattern;

NOW, THEREFORE, BE IT RESOLVED that York County Planning and Zoning Commission members, Roger Morris and Rex Heiden be reappointed to serve a two (2) year term to begin May 1, 2009 and continue until May 1, 2011; and that member Albert Kliewer be reappointed to serve a three (3) year term beginning May 1, 2009 and continue until May 1, 2012 ; and that Jason Hirschfeld be appointed to serve a three (3) year term beginning May 1, 2009 and continuing until May 1, 2012.

Dated this 21st day of April, 2009.

On the Board of Adjustments, Gary Karnopp and Jerry Stahr's terms are expired. Gary Karnopp advised that he would be willing to be reappointed, however, Jerry Stahr declined reappointment. Chairman Brown stated that Mike Foley would be willing to serve as alternate in the position held by Stahr. In order to reestablish the rotation, it is necessary to appoint these two members to serve a three year term.

Moved by Bulgrin, seconded by Bredenkamp to adopt Resolution #09-24 reapproving Gary Karnopp as a member of the Board of Adjustment and Mike Foley as an alternate for a three year term; roll call: yeas, Bulgrin, Bredenkamp, Neujahr, Bergen and Brown; nays, none; motion carried.

RESOLUTION #09-24

WHEREAS, Board of Adjustment members, Gary Karnopp and Jerry Stahr's terms have terminated; and

WHEREAS, the York County Board of Commissioners has been made aware that Jerry Stahr has declined renomination; and

WHEREAS, the York County Board has been advised that Mike Foley is willing to serve on the Board of Adjustments in that position; and

WHEREAS, Gary Karnopp has consented to serve another term, and further that the Board of Commissioners feels that it would appropriate to reappoint said Gary Karnopp and appoint Mike Foley as Alternate; and

WHEREAS, the Board finds it necessary at this time to set the member's terms to allow them to expire in an alternating pattern;

NOW, THEREFORE, BE IT RESOLVED that York County Board of Adjustment member, Gary Karnopp, be reappointed to serve a three (3) year term to begin May 1, 2009 and continue until May 1, 2012; and also that Mike Foley be appoint to serve on the Board of Adjustments as an alternate for a period of three years beginning May 1, 2009 and ending May 1, 2012.

Dated this 21st day of April, 2009.

Carol Hrlicka with the 2-1-1 System gave the Board an update on the program. In budget year 2008-2009, the county provided funding in the amount of \$1,156.00. This year, however, the program will be funded by the state. The Governor has given money to get the rest of the state hooked up to the 2-1-1 system. She asked the Board to keep in mind that the funding may be necessary in the future and thanked them for their contribution.

Treasurer Scavo requested release of securities with Cornerstone Bank, Henderson State Bank and Union Bank

Moved Bredenkamp, seconded by Bulgrin to adopt Resolution #09-25 to approve the release of custody receipts with Cornerstone Bank in the amount of \$1,000,000 CUSIP #3128X76N9 and \$1,250,000 CUSIP #3133XQJJ2; roll call: yeas, Bredenkamp, Bulgrin, Bergen, Neujahr and Brown; nays, none; motion carried.

RESOLUTION #09-25

WHEREAS, Cornerstone Bank N.A. was heretofore designated as a depository for County Funds and to secure the same from time to time, has heretofore deposited with escrow, certain securities, which have from time to time with the approval of the County Board been submitted for other securities; and

WHEREAS, at this time there are on deposit with said U.S. Bank N.A. in escrow, to secure the County deposits in said Cornerstone Bank N.A. the following securities:

Security Description: Federal Home Loan Mtg corp.
Cusip: 3128X76N9
Maturity Date: 12/16/2013
Rate: 4.50000
Issue Date: 12/16/2008
Pledged Amount: \$1,000,000.00

Security Description: Federal Home Loan Mtg corp.
Cusip: 3133XQJJ2
Maturity Date: 04/15/2008
Rate: 4.50000
Issue Date: 4/15/2008
Pledged Amount: \$1,250,000.00

BE IT THEREFORE RESOLVED that the depository receipts heretofore filed with the County Clerk covering the above described securities, be and hereby are cancelled and discharged, and the County of York hereby releases the said U.S.

Bank N.A. Escrow Agent from all liability by reason of the surrender of the said bonds and hereby authorizes and empowers the County Treasurer to surrender the Depository Receipt covering said bonds to Cornerstone Bank N.A.

DATED this 21st day of April, 2009

Moved by Bredenkamp, seconded by Bergen to adopt Resolution #09-26 to release custody receipt with Henderson State Bank in the amount of \$200,000; roll call: yeas, Bredenkamp, Bergen, Neujahr, Bulgrin and Brown; nays, none; motion carried.

RESOLUTION #09-26

WHEREAS, Henderson State Bank. was heretofore designated as a depository for County Funds and to secure the same from time to time, has heretofore deposited with escrow, certain securities, which have from time to time with the approval of the County Board been submitted for other securities; and

WHEREAS, at this time there are on deposit with the said Kansas Bankers Surety Company in escrow, to secure the County deposits in said Henderson State Bank the following securities:

Security Description: Bond No DG1237NE 045

The Kansas Bankers Surety Company
1220 SW Executive Dr.
Topeka KS 66615

Pledged amount \$200,000.00

BE IT THEREFORE RESOLVED that the depository receipts heretofore filed with the County Clerk covering the above described securities, be and hereby are cancelled and discharged, and the County of York hereby releases the said Kansas Bankers Surety Company Escrow Agent from all liability by reason of the surrender of the said bonds and hereby authorizes and empowers the County Treasurer to surrender the Depository Receipt covering said bonds to Henderson State Bank N.A.

DATED this 21st day of April, 2009

Moved by Bulgrin, seconded by Neujahr to adopt Resolution #09-27 releasing pledged security with Union Bank CUSIP #3133SJTC2 in the amount of \$450,000; roll call: yeas, Bulgrin, Neujahr, Bergen, Bredenkamp and Brown; nays, none; motion carried.

RESOLUTION #09-27

WHEREAS, Union Bank and Trust. was heretofore designated as a depository for County Funds and to secure the same from time to time, has heretofore deposited with escrow, certain securities, which have from time to time with the approval of the County Board been submitted for other securities; and

WHEREAS, at this time there are on deposit with the said Wells Fargo Bank, N.A. in escrow, to secure the County deposits in said Union Bank and Trust the following securities:

Security Description: Federal Home Loan Note
Cusip: 3133XJTC2
Maturity Date: 02/02/2009
Rate:
Issue Date: 02/02/2007
Pledged Amount: \$450,000.00

BE IT THEREFORE RESOLVED that the depository receipts heretofore filed with the County Clerk covering the above described securities, be and hereby are cancelled and discharged, and the County of York hereby releases the said Wells Fargo Bank., N.A. Escrow Agent from all liability by reason of the surrender of the said bonds and hereby authorizes and empowers the County Treasurer to surrender the Depository Receipt covering said bonds to Union Bank & Trust Company.

DATED this 21st day of April, 2009.

A request was also received from Scavo to approve pledged securities from Cornerstone Bank and Union Bank.

Moved by Neujahr, seconded by Bergen to adopt Resolution #09-28 to approve CUSIP #3133XSV28 in the amount of \$1,250,000 and #3133XSZH4 in the amount of \$1,000,000 with Cornerstone Bank; roll call: yeas, Neujahr, Bergen, Bulgrin, Bredenkamp and Brown; nays, none; motion carried.

RESOLUTION #09-28

WHEREAS, Cornerstone Bank N.A. was heretofore designated as a depository for county funds and to secure the same from time to time, has heretofore deposited securities with U.S. Bank N.A.

BE IT THEREFORE RESOLVED, that the deposit of securities heretofore made to secure the County deposits with said Cornerstone Bank, N.A. be and the same are hereby approved and that the Depository Receipts herewith filed with the County Clerk covering the following described securities be approved:

Security Description: Federal Home Loan Bank 2/19/14 Bonds non-structured
Maturity Date: 2/19/2014
CUSIP: #3133XSZH4
Rate: 3.200%

Pledged amount: \$1,000,000.

Security Description: Federal Home Loan Bank

Maturity Date:

CUSIP: #3133XSV28

Rate:

Pledged amount: \$1,250,000.

DATED this 21st day of April, 2009

Moved by Bulgrin, seconded by Bredenkamp to adopt Resolution #09-29 to approve custody security with Union Bank CUSIP#912828GN4 in the amount of \$450,000; roll call: yeas, Bulgrin, Bredenkamp, Bergen, Neujahr and Brown; nays, none; motion carried.

RESOLUTION #09-29

WHEREAS, Union Bank & Trust Company was heretofore designated as a depository for county funds and to secure the same from time to time, has heretofore deposited securities with Wells Fargo Bank, N.A.

BE IT THEREFORE RESOLVED, that the deposit of securities heretofore made to secure the County deposits with said Union Bank & Trust Company be and the same are hereby approved and that the Depository Receipts herewith filed with the County Clerk covering the following described securities be approved:

Security Description: U.S. Treasury Inflat Index Note

Maturity Date: 4/15/2012

CUSIP: #912828GN4

Rate: 2.000%

Pledged amount: \$450,000.

DATED this 21st day of April, 2009.

The County Attorney has reviewed the contract with Blue Knight Security whereby we would engage them for services to man the courtroom metal detector.

Moved by Neujahr, seconded by Bredenkamp to approve the contract with Blue Knight Security for one year at a time; roll call: yeas, Neujahr, Bredenkamp, Bulgrin, Bergen and Brown; nays, none; motion carried.

CONTRACT

This is a Contract for Services made April 21, 2009, between the York County Board of York, Nebraska, herein referred to as CLIENT, and Blue Knight Security, Inc. of 409 Highway 34, Bradshaw, Nebraska, 68319, herein referred to as CONTRACTOR. The Contract will be in force commencing on May 1, 2009 and ending on May 1, 2010.

RECITALS:

Whereas, CLIENT desires a security guard to assist with courtroom security at the York County Courthouse on days when court is in session and CONTRACTOR agrees to perform such security services for CLIENT under the terms and conditions set forth in this contract it is agreed by and between CLIENT and CONTRACTOR that in consideration of the mutual promises set forth herein that:

1. **DESCRIPTION OF WORK:** The work to be performed by CONTRACTOR includes all services generally performed by CONTRACTOR IN CONTRACTOR'S usual line of business, including, but not limited to the following:
 - (a) Providing one (1) security guard for a shift on court days, the hours of which will be determined after consultation with the York County Sheriff's Office. This security guard will be an armed, off-duty or former law enforcement officer. The shift will be for a minimum of 2 hours and CONTRACTOR will not object to having the York County Sheriff's Office perform the duties assigned to the security guard if the shift is less than two (2) hour.
 - (b) The security guard will be responsible for screening anyone that comes into the county court or the district court area of the York County Courthouse. This screening will be done by the use of metal detectors.
 - (c) CONTRACTOR can provide additional security guards meeting the requirements set forth in section 1, subsection (a) as needed, to be compensated for as provided for in this contract.
2. **PAYMENT:** CLIENT shall pay CONTRACTOR the following consideration, to-wit:
 - (a) \$24.00 per hour for the initial security guard. Any portion of the hour worked will be billed at this rate divided by the actual time worked.
 - (b) \$22.00 per hour for any additional security guard. Any portion of the hour worked will be billed at this rate divided by the actual time worked.
 - (c) Payment of all consideration by CLIENT to CONTRACTOR shall be due and payable in full within thirty (30) days of CLIENT receiving the invoice. CLIENT shall PROVIDE CONTRACTOR with a copy of their Nebraska Sales Tax Exemption.

3. **INDEPENDENT CONTRATOR RELATIONSHIP:** In performance of this contract, the CONTRACTOR will perform the assigned duties under the direction of the York County Sheriff or his deputies. The contact person for CLIENT will be the York County Sheriff and CONTRACTOR'S contact will be Stan Williams. CLIENT will make every effort to provide CONTRACTOR will as much advance notice as possible of upcoming court dates.

4. EMPLOYMENT BENEFITS: CONTRACTOR covenants to save CLIENT harmless from any and all liability for withholding state or federal income tax, and any employer's tax liability now or subsequently imposed on CONTRACTOR.

CONTRACTOR waives all claims against CLIENT which CONTRACTOR may now have or subsequently acquire for employer liability compensation, unemployment compensation or otherwise, under the laws of the United States or the State of Nebraska.

MISCELLANEOUS PROVISIONS:

- (a) This Contract shall be governed by and construed in accordance with the laws of the State of Nebraska.
- (b) The section titles contained in the Contract are for convenience only and shall not limit or otherwise affect the meaning or interpretation of any provision of this Contract.
- (c) No provision of this Contract may be amended, waived or terminated except by an instrument in writing setting forth the terms of such amendment, waiver or termination signed by the parties against whom enforcement is sought. No delay in enforcing a right or remedy under this Contract shall constitute a waiver of any such right or remedy by either party. Any proposed changes to this agreement by either party will require 60 day written notice by either party.
- (d) Each provision, section, sentence, clause, phrase and word of this Contract is intended to be enforceable. If any provision, section, sentence, clause, phrase and word hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Contract.
- (e) TERMS. This agreement shall continue effective for a term of one year from the date hereof. This Agreement shall be automatically extended and renewed for the same term unless either party elects to terminate this Agreement, at any time, by giving written notice, of at least 60 days, to the other party.
- (f) FORCE MAJEURE. Neither party will be considered to have breached its obligation under this Agreement as a consequence of delays or failures in performance resulting from occurrences beyond the party's control, provided the party has taken reasonable measures to prevent loss from any such reasonably foreseeable occurrences and provided, the party has taken all possible measures to mitigate the loss after the occurrence. Such occurrence will include, without limitation, acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations imposed after the fact, fire, communication line failure, power failures, earthquakes, terrorism, or other disasters.

These parties have executed and delivered this contract on the date first written below:

Dated this 21st day of April, 2009.

Moved by Bredenkamp, seconded by Neujahr to adopt Resolution #09-30 directing the Treasurer to issue sales tax certificates from the list of properties; roll call: yeas, Bredenkamp, Neujahr, Bergen, Bulgrin and Brown; nays, none; motion carried.

RESOLUTION #09-30

WHEREAS, the York County Board had several parcels of real estate offered for sale on the first Tuesday of March, 2009, being March 3, 2009 due to delinquent real estate taxes. The County Treasurer has presented to the York County Board of Commissioners on April 21, 2009, a list of parcels of real estate which having been regularly advertised and offered for sale remain unsold for want of bidders.

WHEREAS, the County Board of York County in accordance with Section 77-1918 and 77-1809 R.R.S hereby desires tax sales certificates to be issued in the name of the County of York on the below listed real estate.

NOW, THEREFORE, BE IT RESOLVED that the County Treasurer of York County is hereby directed to issue tax sales certificates in the name of the County of York as to the following described parcels of real estate as shown on Exhibit "A" which is attached hereto and incorporated by reference herein.

Exhibit A

PARCEL #	AMOUNT	TAXPAYER NAME	LEGAL
930024842	2,269.10	BRUNS/MARSHALL R & LUANN C	SW4 EXC HWY 138.88AC 24-10-1 2,269.10
930081463	5,349.80	MACDONALD/DIANE J	LTS 1 & 2 B 3 5,349.80*
930058054	1,483.00	WESSELS/ROGER M & CHARLOTTE L	LT 4 B 27 1,483.00*
930182243	1,482.42	BLUNDELL/WILLIAM L	LTS 4-6 B18 1,482.42*
930116496	1,070.35	KERWOOD/DOUGLAS K	LT 10 1,070.35*
930048431	868.42	SPROUSE II/WILLIAM A	LT 1 868.42*
930010868	851.60	REYES/MARIO (RATLIFF,MARGARET)	S 45' LT 4 B 65 851.60*
930050622	724.66	SACKSCHEWSKY/MAX W	1 AC NW CRNER NW4 NW4 3-11-2 724.66*
930126815	665.40	NISLY/NORMAN & TAMMIE	LTS 9 & 10 B 16 665.40*
930072642	645.28	LAZO/HUGO	E 142' IT 14 645.28*
930019903	626.90	RUPPRECHT/DEBORAH & KATHRYN	LT 1 & E2 VAC ALLEY ADJ B 1 626.90*
930044010	541.32	BURKE ENERGY (MIDWEST) CORPORATION	LTS 1-3 EXC E 20' THEREOF & PT VAC BUTTERFIELD AVE ADJ B10 541.32*
930008553	489.58	ASHTON/BRYAN G & BEVERLY J	PT W2 SW4 1 AC 9-9-2 489.58
930127900	464.52	COON/JOHNNIE & POLLY	LTS 5-6 B 10 464.52*
930004523	462.56	MCILRAVY/DAWN A	LT 9 B 43 462.56

930027817	457.24	STELL/WANDA	LT 1 B 52 457.24
930000331	447.32	LAZO & ANA PORTILLO/HUGO F	LT 4 B 14 447.32
930001974	446.94	TORRES/MIGUEL ANGEL	LT 9 B 24 446.94
930087283	429.46	SCHROEDER/DUDLEY JOHN	LT10 & 10' VAC STAFFORD & STOCKTON STS B 6 429.46
930057562	414.16	TONNIGES/HOLLY ANN	LTS 11-12 B 22 414.16
930029860	409.14	GIBBS/JAMES J & IRMA G	IT4 SW4 1.06 AC 22-10-2 409.14
930049462	399.00	STUHR/CHARLES E	IT 1 4.30 AC 31-11-1 399.00
930019911	343.30	MAGDALENO/VASQUEZ	LT 15 B 1 343.30
930087917	332.92	MERKLINGER/JOSEPH E & JERRI A	LTS 3 & 4, 10' VAC CHAPIN & AUSTIN STS& 7' VAC ALY ADJ TO WESTSIDE B7 332.92
930125355	323.52	TRAUDT/ALAN L & PATSY A	LT 13 & S2 VAC ALLEY B 8 323.52
930083644	320.54	ENGLISH/KEVIN E	LTS 11-18 B 40 320.54
930086899	316.46	GOLDEN/LARRY	LTS 11-15 B 8 316.46*
930058909	313.56	HANSEN/ALLEN C	E 132.5' LT 17 B 34 313.56*
930126580	313.04	SACKSCHEWSKY/MAX W	LTS 1 & 2 B 21 313.04*
930070305	301.32	PRESLICKA/ALLAN D	LTS 1 & 2 B 4 301.32*
930070704	280.74	DAHOOD/NARIMAN K	LT 3 B 12 280.74
930178653	280.48	MAYBERRY/JOHN S	LOT 10 B 2 280.48
930127927	275.30	FARBER/MARTHA	LTS 7 & 8 B 12 275.30*
930087151	272.02	STUHR/CHARLES EDGAR	LTS 1 & 2 & 10' VAC STOCKTON & STAFFORD STS B 3 272.02
930041941	266.12	KASPARI/JACQUELINE F	LT 11 B 1 266.12
930003500	264.89	UMANA/RUTH NOEMI	LT 7 B 16 264.89
930042433	245.94	KUNASEK/ROGER	LTS 7-9 & W2 VAC ALLEY B 2 245.94*
930042352	215.32	KUNASEK/ROGER	LTS 5-6 & W2 VAC ALLEY B 2 215.32
930000196	210.68	GLOVER/TROY	N 10' LT 9 & 10 B 11 210.68
930082095	210.54	KRAMER/STEVEN L & REBECCA L	S 10' LTS 5-6 & LTS 7-12 B 5 210.54
930020065	203.80	GIBSON/CODY LEE	LTS 1-2 B 108 414.60*
930072030	200.43	TRACY/TIFFANY	LTS 7 & 8 B 3 200.43
930086422	194.10	SACKSCHEWSKY/MAX	LTS 8-14 B 4 194.10*
930069099	191.56	TONNIGES/HOLLY	IT1 19.67 AC 34-12-2 191.56
930127293	186.02	FARBER/RICHARD & LAURA	LTS 9-10 & N2 OT 8 B 10 VAC DEPOT ST & PT RR ROW 186.02
930127560	168.52	BUTZKE/WILFRED	LT 3 B 11 168.52*
930181409	168.46	HAMPTON L L C	LT 1 B 4 168.46
930073002	168.00	MCGEE/RANDALL S	N 70' OF W 142' IT 16 168.00
930181581	163.58	HAMPTON L L C	LT 10 B 3 163.58
930181670	151.14	HAMPTON L L C	LT 4 B 4 151.14
930181573	151.04	HAMPTON L L C	LT 3 B 4 151.04
930181492	150.92	HAMPTON L L C	LOT 2 B 4 150.92
930181751	150.64	HAMPTON L L C	LT 5 B 4 150.64
930181565	149.36	HAMPTON L L C	LT 1 B 5 149.36
930060423	146.10	SHAW/MATTHEW J & JODY A	LT 4 B 3 146.10
930181697	139.80	HAMPTON L L C	LT 6 B 3 139.80
930181417	139.42	HAMPTON L L C	LT 8 B 3 139.42
930181506	139.42	HAMPTON L L C	LOT 9 B 3 139.42
930181786	139.42	HAMPTON L L C	LT 7 B 3 139.42
930127498	130.16	FARBER/RICHARD L & LAURA A	LT 12 B 12 130.16*
930009355	112.00	CUDABACK/RANDALL J	PT IT 1 .98 AC 18-9-2 112.00
930181824	111.60	HAMPTON L L C	LT 6 B 6 111.60
930181735	108.20	HAMPTON L L C	LT 5 B 6 108.20
930080947	107.88	MCGREGOR/ROBERT	LTS 3 & 4 B 7 107.88
930181654	107.62	HAMPTON L L C	LT 4 B 6 107.62
930181743	102.10	HAMPTON L L C	LT 3 B 5 102.10
930181662	101.52	HAMPTON L L C	LT 2 B 5 101.52
930128192	101.18	BELL/RICHARD L & CYNTHIA M	LT 2 B 5 101.18
930128559	94.98	STEWART/GUY W	LTS 13-14 B 6 94.98
930072464	91.90	SPROUSE II/WILLIAM A	W 47.5' OF S 104.75' IT 12 91.90
930030435	89.30	HANSEN/ROBERT L & GAIL L	S2 W 120' OF N 340' OF E2 NE4 NW4 EXC S 30' FOR ST .39AC 89.30
930128486	87.56	BRAASCH/BRADLEY O	LTS 1 & 2 EXC S 30' THEREOF B7 87.56*
930127005	79.34	HARMON/JEANETTE M	S 50' LT 5 & 6 B 18 79.34
930183398	77.26	LANDOLT/TERRY JO	LT 3 B 1 77.26
930099990	75.22	VAUGHT/THOMAS E	LTS 11 & 12 B 1 75.22*
930190327	68.20	STECKLY/JOY A	TR IN SW4 NE4 .75 AC 31-10-4 68.20
930126823	64.14	HARMON/JEANETTE M	S 40' OT 2 & N 40' LT 3 B 18 64.14*
930086805	62.92	HOBSON/RANDALL L	LTS 5-8 B 8 62.92
930087240	51.92	STUHR/CHARLES EDGAR	LT 3 & 10' VAC STOCKTON ST B3 51.92
930087089	49.38	SACKSCHEWSKY/MAX W	WREHSE LTS 12-18 EXC SELY 10' 49.38*
930080157	38.74	CRAIN/JERALD W	LTS 4-6 B 30 38.74*
930086996	36.20	SACKSCHEWSKY/MAX W	PT WAREHOUSE LTS 9-11 36.20*
930126912	34.14	HARMON/JEANETTE M	S 20' LT 3, 4 & N 10' LT 5 B 18 34.14
930082087	30.06	STEARNS/WILLIAM E & NATASHA	LTS 10-12 B 8 30.06
930087135	22.10	SACKSCHEWSKY/MAX W	PT OF NW4 35-12-2 FRMRLY LTS 16-17 & 1/2 VAC 1ST ST B 2 22.10*
930177126	17.50	PK LEACH LLC	S2 L 12 B 22 17.50
930087461	14.72	SACKSCHEWSKY/MAX W	PT NW4 36-12-2 FRMLY L 4-7 B2 14.72*
930081617	8.51	PK LEACH LLC	S84' LTS1-3 & S34' OF N109' LTS4-6 B22 8.51
930086945	7.10	SACKSCHEWSKY/MAX W	LT 7 B 4 7.10*
930174895	6.60	HOBSON/RANDY	LTS 9 & 10 B 8 6.60

TOTAL 31,276.64

Dated this 21st day of April, 2009.

A public hearing was held at 10:32 a.m. concerning an application to the Department of Economic Development (DED) for an Affordable Housing Program (AHP) Grant.

Present at the hearing were: Norene Fitzgerald representative of SENDD (Southeast Nebraska Development District); County Commissioners Bulgrin, Bergen, Bredenkamp, Neujahr and Brown; Ann Charlton, County Assessor; and Don Robb, Highway Superintendent. Chairman Brown announced that he had proof of publication.

No objections were made to the program.

The hearing was closed at 10:41 a.m.

Moved by Neujahr, seconded by Bredenkamp to adopt Resolution #09-31 "Authorizing Chief Elected Official To Sign an Application for Nebraska Affordable Housing Program Funds"; roll call: yeas, Neujahr, Bredenkamp, Bergen, Bulgrin and Brown; nays, none; motion carried.

**RESOLUTION #09-31
AUTHORIZING CHIEF ELECTED OFFICIAL TO SIGN AN APPLICATION FOR NEBRASKA
AFFORDABLE HOUSING PROGRAM FUNDS**

Whereas, the **County of York County, Nebraska**, is an eligible unit of a general government authorized to file an application under the Housing and Community Development Act of 1974 as Amended for Small Cities Community Development Block Grant (CDBG) Program, and, Cranston-Gonzalez National Affordable Housing Act of 1990 (HOME Program) funds distributed by the Department of Economic Development through the Nebraska Affordable Housing Program (NAHP).

Whereas, the County of York County, Nebraska has obtained its citizens' comments on community development and housing needs; and has conducted a public hearing upon the proposed application and received favorable public comment respecting the application which is for an amount of \$329,900 in NAHP funds to implement (with the York Housing and Development Corporation, Inc.) a down-payment assistance program (with minor rehabilitation) for homebuyers in the communities and the rural county area of York County; and,

NOW, THEREFORE, BE IT RESOLVED BY

The Board of Commissioners of York County, Nebraska that the Chairman be authorized and directed to proceed with the formulation of any and all contracts, documents or other memoranda between the County of York County, Nebraska and the Nebraska Department of Economic Development so as to effect acceptance of the grant application.

Dated this 21st day of April, 2009.

Also addressed was the Interlocal Cooperation Act Agreement which sets up the participation of all the communities, the county and the YHDC in the project application and program's implementation.

Moved by Bulgrin, seconded by Bredenkamp to adopt Resolution #09-32 to enter into the Interlocal Cooperation Act Agreement and require the signature of all villages that participate in it; roll call: yeas, Bulgrin, Bredenkamp, Bergen, Neujahr and Brown; nays, none; motion carried.

**RESOLUTION #09-32
INTERLOCAL COOPERATION ACT AGREEMENT**

**THE COUNTY OF YORK COUNTY, NEBRASKA
THE CITY OF YORK, NEBRASKA
THE VILLAGE OF BENEDICT, NEBRASKA
THE VILLAGE OF BRADSHAW, NEBRASKA\
THE VILLAGE OF GRESHAM, NEBRASKA
THE VILLAGE OF HENDERSON, NEBRASKA
THE VILLAGE OF LUSHTON, NEBRASKA
THE VILLAGE OF MCCOOL JUNCTION, NEBRASKA
THE VILLAGE OF THAYER, NEBRASKA
THE VILLAGE OF WACO, NEBRASKA
AND
YORK COUNTY HOUSING, INC**

For a

"HOMEOWNERSHIP OPPORTUNITY PROGRAM"

THIS INTERLOCAL AGREEMENT (hereinafter referred to as the "Agreement") is made by and among the **COUNTY OF YORK COUNTY, NEBRASKA** (hereinafter referred to as "the County"), the **CITY OF YORK, NEBRASKA** (hereinafter referred to as "York"), the **VILLAGE OF BENEDICT, NEBRASKA** (hereinafter referred to as "Benedict"), the **VILLAGE OF BRADSHAW, NEBRASKA** (hereinafter referred to as "Bradshaw"), the **VILLAGE OF GRESHAM, NEBRASKA** (hereinafter referred to as "Gresham"), the **VILLAGE OF HENDERSON, NEBRASKA** (hereinafter referred to as "Henderson"), the **VILLAGE OF LUSHTON, NEBRASKA** (hereinafter referred to as "Lushton"), the **VILLAGE OF MCCOOL JUNCTION, NEBRASKA** (hereinafter referred to as "McCool Junction"), the **VILLAGE OF THAYER, NEBRASKA** (hereinafter referred to as "Thayer") and the **VILLAGE OF WACO, NEBRASKA** and the **YORK HOUSING AND DEVELOPMENT CORPORATION, INC.** (hereinafter referred to as "YHDC"), pursuant to the Nebraska Interlocal Cooperation Act, Sections 13-801 R.R.S. Neb., 1943, et seq.

RECITALS:

WHEREAS, the development of housing, and the great importance of the development of “Affordable Housing”, has been a key to growth in YORK County; and

WHEREAS, a “Housing Study” for various communities in YORK County has shown a great need for affordable housing activities; and

WHEREAS, homeownership of affordable housing is identified as a great need; and

WHEREAS, federal and state grant programs are available to assist the parties to carry out affordable housing activities and one such Program is the “2009 Affordable Housing Program”, administered by the Nebraska Department of Economic Development (NDED).

NOW THEREFORE, for and in consideration of the foregoing recitals and the mutual covenants of the parties hereinafter expressed, the parties agree as follows:

1. **PURPOSE:** The purpose of this Agreement is to provide for cooperative undertakings by and among, York, Benedict, Bradshaw, Gresham, Henderson, Lushton, McCool Junction, Thayer, Waco, the County and YHDC without any separate entity being created; and, the duties and responsibilities of the parties shall be as defined by this Agreement
2. **PROGRAM:** The parties hereby establish the Program, pursuant to which the **“Homeownership Opportunity Program for Affordable Housing”** for the various participating communities/county will be undertaken.
3. **RESPONSIBILITIES OF YORK COUNTY AS APPLICANT:** The County shall be the “lead” applicant for assistance under the 2009 Nebraska Affordable Housing Program (NAHP)-Homebuyer Program Category, in an application for funding.

The County will also be responsible for General Program Administrative requirements for the NAHP project if awarded.

The County, in conjunction with YHDC, will procure technical and/or professional assistance for the Program, which will also include activities in the other participating communities/county. Technical and/or professional assistance may include, but not be limited to the following: Project Administrators, Housing Professionals and Program Managers, Certified Lead Testing personnel, Auditors, etc.

The County shall be responsible for requesting payment of NAHP eligible project costs through the NDED financial management system. Upon receiving NAHP funds, the County will distribute approved payments and/or reimbursements for activities under the Program.

4. **PROGRAM RESPONSIBILITIES OF York, Benedict, Bradshaw, Gresham, Henderson, Lushton, McCool Junction, Thayer and Waco:** Each community will participate in the “Homeownership Opportunity Program” by promoting the program and by assisting residents of their jurisdiction in utilizing the program.

5. **PROGRAM RESPONSIBILITIES OF YORK HOUSING AND DEVELOPMENT CORPORATION, INC ((YHDC):** YHDC will act as a coordinator for the implementation of the “Homeownership Opportunity Program” (under a **Subrecipient Agreement** with the County) and will assist in supervising consultants in the administration and management of the Program. YHDC will coordinate with the County for the procurement of technical and/or professional consultants for the Program. YHDC will develop HOP Guidelines and distribute them to communities and other partners to assist in the identification and participation of eligible Program clients.

6. **DURATION:** The duration of this Agreement shall be concurrent with the approval NAHP schedule and shall also include any extensions, agreed upon in writing by the County (as the “lead” NAHP applicant) and the NDED.

7. **SEVERABILITY:** In the event any portion of this Agreement may be held invalid or unenforceable for any reason, it is agreed that those portions which are invalid or unenforceable shall not affect the remainder of the Agreement and the remaining provisions shall remain in full force and effect, and any court of competent jurisdiction may so modify any objectionable provision of the Agreement so as to render it valid, reasonable and enforceable.

8. **COUNTERPARTS:** This Agreement may be signed in any number of counterparts, each of which will be an original, but all of which taken together will constitute one agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date hereinafter indicated after approval at appropriately convened public meetings of their governing bodies.

Approved by the Board of Commissioners of York County, Nebraska, this 21st day of April, 2009.

COUNTY OF YORK COUNTY, NEBRASKA
BY: : Augustus M. Brown, Jr. CHAIR

Approved by the City Council of York, Nebraska this _____ day of _____, 2009.

Approved by the Board of Trustees of Benedict, Nebraska, this _____ day of _____, 2009

Approved by the Board of Trustees of Bradshaw, Nebraska, this _____ day of _____, 2009

Approved by the Board of Trustees of Gresham, Nebraska, this _____ day of _____, 2009

Approved by the Board of Trustees of Henderson, Nebraska, this _____ day of _____, 2009

Approved by the Board of Trustees of Lushton, Nebraska, this _____ day of _____, 2009

Approved by the Board of Trustees of McCool Junction, Nebraska, this _____ day of _____, 2009

Approved by the Board of Trustees of Thayer, Nebraska, this _____ day of _____, 2009

Approved by the Board of Trustees of Waco, Nebraska, this _____ day of _____, 2009.

Approved by the Board of Directors of York County Housing, Inc., this _____ day of _____, 2009

Gravel bids were opened at 11:00 a.m. as advertised.

Bids were submitted by:

DPL Enterprises dba Nichols Construction Co. Edger, NE

FOB PIT – Road Gravel for 2009-2010 \$8.00/ton

Overland Sand & Gravel, Stromsburg, NE

Arborville (Eagle, Grigsby)	\$11.23/\$8.32 ton
Morton (Eagle, Grigsby)	\$12.44/\$9.21 ton
Thayer (Eagle, Grigsby)	\$13.66/\$10.21 ton
Stewart (Eagle, Grigsby)	\$14.59/\$10.81 ton
Bradshaw (Eagle, Grigsby)	\$12.44/\$9.21 ton
Lockridge (Eagle, Grigsby)	\$13.66/\$10.21 ton
New York (Phelps)	\$13.78/\$10.12 ton
Waco (Phelps)	\$13.38/\$9.91 ton
Brown (Eagle, Grigsby)	\$13.66/\$10.12 ton
Baker (Phelps)	\$13.78/\$10.12 ton
Leroy (Phelps)	\$12.57/\$9.31 ton
Beaver (Phelps)	\$12.16/\$9.01 ton
Henderson (Phelps)	\$14.39/\$10.66 ton
Hays (Phelps)	\$13.17/9.76 ton
McFadden (Phelps)	\$11.98/\$8.86 ton
West Blue (Phelps)	\$11.56/\$8.56 ton
FOB PIT (Phelps)	\$10.60/\$7.85 ton
FOB PIT (Eagle, Grigsby)	\$8.00/\$5.93 ton
Sand Pit	\$2.50/\$1.85 ton
Road Gravel for the period from 2009-2010	
FOB Pit (Phelps)	\$10.60/\$7.85 ton
FOB Pit (Eagle, Grigsby)	\$8.00/\$5.93 ton

Johnson Sand & Gravel, Columbus, NE

Morton	\$16.26
Thayer	\$14.94
Stewart	\$13.84
Lockridge	\$17.80
New York	\$16.26
Waco	\$15.16
Baker	\$18.90
Leroy	\$17.58
Beaver	\$16.48
McFadden	\$18.90
West Blue	\$17.80
FOB Pit	\$8.50
Armor Coat Aggregate	\$8.50
Sand Pit	\$3.50

Highway Superintendent Robb recommended that we accept all bids and work out the bond issues.

Moved by Neujahr, seconded by Bredenkamp to accept the recommendation of the Highway Superintendent to accept all bids; roll call: yeas, Neujahr, Bredenkamp, Bulgrin, Bergen and Brown; nays, none; motion carried.

A public hearing was held at 11:30 a.m. as advertised to consider changes in fares for the York County Transportation System. Chairman Brown announced that he had proof of publication of April 1 and 10, 2009.

Present at the hearing were: County Commissioners Bergen, Bulgrin, Bredenkamp, Neujahr and Brown along with Lori Byers, Area on Aging Coordinator. All interested persons were allowed to be heard at the hearing.

The change proposed would increase the fee for out-of-county boardings in Lincoln and Grand Island from 50¢ to \$2.00 per boarding, or a ticket. This would bring the fare in line with what is charged for stops within York when a rider makes more than one stop. The York County Transportation System is available to the general public. Also, reviewed at the hearing was an Application for Public Transportation Assistance.

The public hearing was closed at 11:34 a.m.

Moved by Bergen, seconded by Bulgrin to go with the recommendations of our Department Head and change the rate from 50¢ to \$2.00 and adopt a Resolution to apply for Public Transportation Assistance; roll call: yeas, Bergen, Bulgrin, Bredenkamp, Neujahr and Brown; nays, none; motion carried.

**RESOLUTION #09-33
APPLICATION FOR PUBLIC TRANSPORTATION ASSISTANCE**

Project Name:	York County Transportation Services
Legal Name:	York County
Address:	510 Lincoln Ave. York, NE
Telephone:	(402) 362-7759 (County Clerk)
Executive Officer's Name:	Augustus Brown
Title:	Chairman, York County Board of Commissioners
This is a public institution:	
Person for Daily Operation of Project:	Lori Byers, Program Manager
Funds are being requested:	7-1-09 to 6-30-10
Person preparing application:	Lori Byers 2325 Nebraska Ave York, NE 68467

(402) 362-7626 phone (402) 362-1135 fax lbyers@mainstaycomm.net

Type and amount of Assistance being applied for

Federal Operating Assistance \$50,262.12

State Operating Assistance \$22,431.06

Geographical Area to be served: City of York, Benedict, Bradshaw, Gresham, Henderson, McCool Jct., Thayer, Waco, and rural areas of York County

Types of services provided: Demand Responsive (Dial-A-Ride)

Person who will prepare monthly invoices: Lori Byers

Dated and signed this 21st day of April, 2009

Committee reports were given.

Steve Neujahr brought before the board a request for monetary assistance for the cleanup of Recharge Lake. It was a consensus that the County would not help with the funding but individuals may assist with the cleanup.

The Board recessed at 11:55 a.m. Commissioner Bredenkamp was excused for the remainder of the meeting. The Board reconvened at 1:00 p.m.

A public hearing was held at 1:00 p.m. as advertised. Present at the hearing were Mike Foley, Dr. C.M. Wempe, Jay Ferris, Robert Turek, Orval Stahr, Zoning Administrator; Deb Nelsen, Zoning Assistant; Tim Sieh, County Attorney; Melanie Wilkinson, Correspondent for the York News Times; Commissioners Bergen, Bulgrin, Neujahr and Brown (Bredenkamp was absent). The hearing was held to address changes/additions to the York County Zoning Regulations.

Stahr gave a brief synopsis of the changes as published in the News Times.

Public Hearing #1.

Consider and act on an amendment to Section 17, Definitions of York County Zoning Resolution #50 to amend the definition of "Bulk Storage" to read as follows: Bulk Storage: The storage of materials for sale, distribution and use by persons other than the owner of the premises on which such materials are stored and to amend Section 7.3 of the General Agricultural District, Section 8.3 of the Interstate Commercial District and Section 8B.3 of the Rural commercial/Industrial District by adding the following to each Section: Storage of gasoline, diesel fuel, propane or anhydrous ammonia in excess of two thousand (2,000) gallons, provided such storage facility shall be located a minimum of one-fourth mile from any church, school or residential dwelling not of the same ownership as the storage facility.

Public Hearing #2.

Consider and act on an amendment to Section 9.5 of York County Zoning Resolution #50 to add to the current Intersection Visibility requirements for new railroad crossings as per State regulations.

Public Hearing #3.

Consider and act on amendments to Sections 7.2 and 7.4 of the GA – General Agricultural District, Sections 8B.2 and 8B-4 of the RCI – Rural Commercial/Industrial District and amending Section 9, Supplemental Regulations to add a Subsection 9.8 regarding the establishment and regulation of Wind Energy Systems.

Public Hearing #4.

Consider and act on an amendment to Section 7, GA-General Agricultural District of York County Zoning Resolution #50 to amend Section 7.2, paragraph A by adding the following: Prior to the issuance of any zoning permit for a new or expanded feedlot with a capacity of more than three hundred (300) animal units, a public informational meeting shall be conducted by the County Board of Commissioners to allow neighboring property owners and other interested persons to be informed about the proposed use. Such meeting shall be only for dissemination of information about the proposed use and shall not affect the issuance of a zoning permit for such use if the proposed use complies with all applicable requirements of this Resolution. The Zoning administrator shall notify, by first class mail, all property owners within two (2) miles of the proposed site of the feedlot or feedlot expansion of the date, time and place of said public informational meeting at least ten (10) days prior to such meeting. The applicant for a zoning permit for such feedlot or feedlot expansion shall pay a fee, as determined by the County Board of Commissioners and set forth in the County fee schedule, to cover costs associated with such meeting.

Under discuss on Public Hearing #4, the Board, along with Mike Foley of Waco, Robert Turek of UFC in York and Dr. C.M. Wempe of York all spoke in favor of livestock expansion and felt that it would not be beneficial to hold public informational meetings prior to the issuance of any zoning permit for a new or expanded feedlot with a capacity of more than three hundred (300) animal units.

The public hearing was closed at 2:10 p.m.

Moved by Neujahr, seconded by Bulgrin to adopt Resolution #09-34 the amendment Section 17 as a definition of bulk storage as presented; roll call: yeas, Neujahr, Bulgrin, Bergen and Brown; nays, none; Bredenkamp absent; motion carried.

RESOLUTION #09-34

WHEREAS, the York County Board of Commissioners conducted a public hearing on the 21st day of April, 2009 for the purpose of considering amendments to York County Resolution No. 50, which is the Zoning Regulations for York County, Nebraska as recommended by the York County Planning Commission.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF YORK COUNTY, NEBRASKA, this 21st day of April, 2009, that the County does hereby amend Section 17 of said Resolution 50 to modify the definition of Bulk Storage to read as follows: Bulk Storage: The storage of materials for sale, distribution and use by persons other than the owner of the premises on which such materials are stored, and to amend Section 7.3 of the of the General Agricultural District, Section 8.3 of the Interstate Commercial District and Section 8B.3 of the Rural Commercial/Industrial District by adding the following to each Section: Storage of gasoline, diesel fuel, propane or anhydrous ammonia in excess of

two thousand (2,000) gallons, provided such storage facility shall be located a minimum of one-fourth mile from and church, school or residential dwelling not of the same ownership as the storage facility.

One (1) copy of the York County Zoning Resolution 50, including the amendments contained herein shall be kept on file with the York County Clerk and available for public inspection during regular office hours. (Reference Neb. Rev. Stat. § 23-114, §23-114.03, and §23-164 and §23-165.)

That any other resolution or section passed and approved prior to the passage, approval, and publication of this ordinance and in conflict with this provision is hereby repealed.

This resolution shall take effect and be in full force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED this 21st day of April, 2009.

Moved by Bulgrin, seconded by Bergen to table item #2 until we get more clarification as to some of the questions we had with regard to new crossing and liability; roll call: yeas, Bulgrin, Bergen, Neujahr and Brown; nays, none; Bredenkamp absent; motion carried.

Moved by Bulgrin, seconded by Bergen adopt a resolution approving the recommendations of hearing #3; roll call: yeas, Bulgrin, Bergen, Neujahr and Brown; nays, none; Bredenkamp absent; motion carried.

RESOLUTION #09-35

WHEREAS, the York County Board of Commissioners conducted a public hearing on the 21st day of April, 2009 for the purpose of considering amendments to York County Resolution No. 50, which is the Zoning Regulations for York County, Nebraska as recommended by the York County Planning Commission.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF YORK COUNTY, NEBRASKA, this 21st day of April, 2009, that the County does hereby amend Section 7.2 of the GA – General Agricultural District by adding paragraph J to read as follows: J. On-site wind energy systems, subject to the requirements and limitations set forth in Section 9.8, Supplemental Regulations, of this zoning resolution, amend Section 8B-2 of the RCI – Rural Commercial Industrial District by adding paragraph M to read as follows: M. On-site wind energy systems, subject to the requirements and limitations set forth in Section 9.8, Supplemental Regulations, of this zoning resolution, amend Section 7.4 of the GA – General Agricultural District by adding paragraph R to read as follows: R. Utility grid wind energy systems, subject to the requirements and limitations set forth in Section 9.8, Supplemental Regulations, of this zoning resolution, amend Section 8B-4 of the RCI – Rural Commercial Industrial District by adding paragraph P to read as follows: P. Utility grid wind energy systems, subject to the requirements and limitations set forth in Section 9.8, Supplemental Regulations, of this zoning resolution, and amend Section 9 of the Supplemental Regulations by adding Section 9.8 to read as follows:

9.8 WIND ENERGY SYSTEMS

A. INTENT:

According to the research conducted by the Michigan Department of Labor and Economic Development, Energy Office, generation of electricity in the United States is responsible for 36% of carbon dioxide pollution, 64% of sulfur dioxide pollution, 26% of nitrogen oxide pollution and 34% of mercury pollution.

Development of facilities to generate clean, renewable energy will reduce air pollution, increase the fuel diversity of our electric system, save natural resources and provide a hedge against increases in price of fossil fuels used for electric generation.

The intent of these regulations is to strike an appropriate balance between our Nation's need and our State's need to develop clean, renewable energy resources and the necessity to protect the public health, safety and welfare within the zoning jurisdiction of York County, Nebraska.

B. DEFINITIONS: The following definitions shall be applicable to this Section.

1. **AGGREGATE WIND ENERGY CONVERSION SYSTEM (WECS) PROJECT:** A utility grid wind energy conversion system project (WECS) or projects that is / are developed and operated in a coordinated fashion, but which have multiple entities separately owning one (1) or more of the individual WECS(s) within the larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity, but are also part of the aggregate project.

2. **AMBIENT:** The sound pressure level exceeded ninety percent (90%) of the time.

3. **ANSI:** American National Standards Institute.

4. **dB(A):** The sound pressure level in decibels utilizing the "a" weighted scale defined by ANSI for weighting the frequency spectrum to mimic the human ear.

5. **DECIBEL:** The unit of measure used to express the magnitude of sound pressure and sound intensity.

6. **FALL ZONE:** The area, defined as the furthest distance from the tower base, in which a guyed tower will collapse in the event of structural failure. This area is less than the total height of the tower.
7. **FEEDER LINE:** Any power line that carries electrical power from one (1) or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the project distribution system, in the case of interconnection with the high voltage transmission systems, the point of interconnection shall be the substation serving the wind energy conversion system.
8. **IMPACT EASEMENT:** An easement or deed restriction, recorded in the office of the York County Registrar of Deeds, which runs with the land, which is granted to the owner of an industrial use, a confined or intensive animal feeding use, a waste handling facility use, a wind energy conversion system or other use for the period of time that such use shall exist, by the owners of adjoining or neighboring real property in which it is mutually agreed between the grantor and grantee that the grantor shall hold the grantee harmless from odor, smoke, dust, noise, visual or other legal impacts associated with such use on the grantor's property when such use is operated in accordance with the terms of such easement or deed restriction.
9. **METEOROLOGICAL TOWER:** A temporary tower, base plate, anchors, guy wires, hardware, anemometers, wind direction vanes, booms to hold equipment, data loggers, instrument wiring and any telemetry devices that are used to monitor or transmit wind speed, direction and flow characteristics over a period of time at a given location. For the purpose of this regulation, such towers shall refer only to those whose purpose are to analyze the environmental factors needed to assess the potential to install, construct and operate a WECS project which shall be in place on the premises not more than one (1) year from the date of completion of installation.
10. **MODIFICATION:** Any change to the on-site WECS that materially alters the size, type, capacity or location of the WECS. Like-kind replacement and normal repairs shall not be construed to be a modification.
11. **NET METERING:** The difference between the electricity supplied to a customer over the electric grid system and the electricity generated by the customer's WECS that is fed back into the grid system over a billing period.
12. **OCCUPIED BUILDING:** A residential dwelling, school, hospital, church, public library or other building use for public gathering that is occupied by or used by humans for its intended purpose
13. **ON-SITE WIND ENERGY CONVERSION SYSTEM:** An on-site wind energy system with no or one (1) tower, intended to primarily serve the needs of the use on the premises where such system is located. Such system may be connected to the electric grid through net metering, but the primary use shall be to generate electricity to serve the needs of the use on the premises where such system is located.
14. **OPERATOR:** The entity responsible for the day-to-day operation and maintenance of any WECS, WECS project of substation, including any third-party subcontractors.
15. **OWNER:** The entity or entities with an equity interest in the WECS(s), including their respective, successors and assigns. Owner does not mean 1) the property owner from whom land is leased for locating the WECS(s) unless the property owner has an equity interest in the WECS(s) or 2) any person holding a security interest in the WECS(s) solely to secure an extension of credit or person foreclosing on such security interest, provided that after foreclosure such person seeks to sell the WECS(s) at the earliest practicable date.
16. **PUBLIC CONSERVATION LANDS:** Land owned in fee title by State or Federal Government agencies and managed specifically for conservation purposes, including but not limited to wildlife management areas, parks, wildlife refuges and waterfowl production areas. For purposes of this regulation, public conservation lands will also include lands owned in fee title by non-profit conservation organizations and private lands upon which conservation easements have been sold to public agencies or non-profit conservation organizations.
17. **ROTOR:** A component of a wind energy system that acts as a multi-bladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
18. **SCADA TOWER:** A free-standing tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system.

19. **SHADOW FLICKER:** Alternating changes in light intensity caused by the moving blades of a wind energy system which cast a repeating pattern of shadows on the ground and stationary objects, such as a window of a dwelling.
 20. **SOUND PRESSURE:** Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of sound measured at the receiver.
 21. **SOUND PRESSURE LEVEL:** The sound pressure mapped to a logarithmic scale and reported in decibels (dB).
 22. **SUBSTATION:** The apparatus that connects the electrical collection system of the WECS(s) and increases the voltage for connection to the utility grid transmission lines.
 23. **SYSTEM HEIGHT:** The vertical distance from ground level to the tip of the wind generator blade when at its highest point from the ground.
 24. **TOWER HEIGHT:** The height above grade of the fixed portion of the tower, excluding the wind generator.
 25. **TRANSMISSION LINE:** The electrical power lines that carry voltages of at least sixty-nine thousand volts (69kV) and are primarily used to carry electric energy over medium to long distances rather than directly interconnecting and supply electrical energy to retail customers.
 26. **UTILITY GRID WIND ENERGY SYSTEM:** A wind energy conversion system which is designed and constructed to provide electricity to an electric utility grid.
 27. **WIND ENERGY CONVERSION SYSTEM (WECS):** A system with all necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WECS tower, electrical components, WECS foundation and transformer, in any.
 28. **WIND ENERGY CONVERSION SYSTEM PROJECT (WECS Project):** The WECS(s) and associated support facilities including, but not limited to, roads, transformers, electrical cabling, substations, operation and maintenance buildings, SCADA towers within the boundaries of the project site.
 29. **WIND GENERATOR:** The blades and associated mechanical and electrical conversion components mounted on top of a tower whose purpose is to convert kinetic energy of the wind into rotational energy used to generate electricity.
 30. **WIND SITE ASSESSMENT:** An assessment to determine wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.
- C. **ZONING PERMIT REQUIRED:** Issuance of a zoning permit shall be required prior to construction of any on-site or utility grid WECS. Failure to comply with the permitting requirement or any requirement or standard of this section shall constitute a violation of this Resolution.
- D. **ON-SITE WIND ENERGY CONVERSION SYSTEM REQUIREMENTS:**
1. **Application Requirements:** Applications for an on-site WECS shall contain a scaled site plan containing the following information together with attachments which provide non-map data indicated:
 - a. Property lines and physical dimensions of the property where the on-site WECS is proposed, including the right-of-way lines of any public road that is contiguous to the property.
 - b. Location, dimensions and types of existing major structures on the property and height to the top of the canopy of any tree(s) of other obstruction within three hundred feet (300') of the proposed WECS location.

- c. Location of the proposed WECS, foundation, guy wire anchors and associated equipment.
 - d. Setback distances of the WECS as set forth in the regulation.
 - e. Location of overhead utility lines.
 - f. WECS specifications, including manufacturer, model, rotor diameter, tower height, tower type and nameplate generation capacity.
 - g. Sound level analysis prepared by the manufacturer or qualified engineer.
 - h. Electrical components in sufficient detail to allow for determination of compliance with applicable electrical codes.
 - i. Evidence of compliance or non-applicability with the Federal Aviation Administration requirements.
 - j. For on-site WECS which will be connected to the power grid, a copy of the application for interconnection with the electric utility provider.
2. Standard and Requirements: On-site WECS shall be permitted in the applicable zoning district when in compliance with the following standards and requirements:

- a. **SETBACKS:** The setbacks shall be calculated by multiplying the minimum setback requirement number indicated in the table below by the system height and measured from the center of the tower base to property lines, public road rights-of-way or nearest wall of an occupied building. In no event shall the setbacks be less than the minimum setbacks required in the applicable zoning district, except that guy wire anchors shall have a minimum setback from property lines of ten (10) feet.

MINIMUM SETBACK REQUIREMENTS FOR WIND ENERGY CONVERSION TOWERS			
From occupied buildings on the same premises as the WECS	From occupied buildings on abutting properties	From property lines and utility lines	From public road rights-of-way
0	1.5	1.1	1.5

- In the event any owner of abutting property shall grant an impact easement to the owner of the WECS project, the setback from the boundaries of the abutting owner's property and / or occupied buildings thereon shall be as set forth in said impact easement.
- b. **SYSTEM HEIGHT:** The maximum system height shall be forty (40) feet above the highest tree canopy of other obstruction within three hundred feet (300') of the WECS, provided that no system height shall exceed one hundred twenty feet (120').
 - c. **SOUND LEVEL:** The on-site WECS shall not exceed sixty (60) decibels using the "A" scale (dBA), as measured at the property lines, except during short-term events such as severe wind storms and utility outages.
 - d. **SHADOW FLICKER:** The on-site WECS shall be sited in a manner that does not result in shadow flicker impacts more than thirty (30) hours per year on any occupied building on abutting properties. The applicant shall provide a map of such shadow flicker impacts based upon high and low sun angles for the proposed site.
 - e. **SIGNS:** There shall be no signs or logos of any type allowed in the WECS tower or wind generator with the exception of warning signs and manufacturer identification.
 - f. **AVIATION:** Any on-site WECS proposed near an airport shall comply with applicable Federal Aviation Administration regulations.

g. VISUAL IMPACTS:

- 1) Screening of ground mounted electrical and control equipment from public roads and occupied buildings on abutting properties shall be provided by means of fencing and /or landscaping or a combination thereof.
 - 2) The color of the on-site WECS shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends with the surrounding environment. Approved colors shall include white, off-white or gray or such other color that the applicant can demonstrate will blend with the surrounding environment and the sky.
 - 3) The on-site WECS shall not be artificially lit in any manner unless lighting is required by the Federal Aviation Administration, in which case shall provide a copy of the FAA determination and the required markings and /or lights. Red lights shall be used during nighttime illumination to reduce impacts on abutting properties.
- h. ACCESS: The WECS tower shall be designed and installed so as not to provide step bolts, ladders or other means of access for a minimum height of eight feet (8') from ground level and the applicant shall provided evidence as to how all ground mounted equipment shall be secured to prevent unauthorized access.
- i. DESIGN SAFETY: On-site WECS(s) shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI) and the National Electrical Commission (NEC). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (GL), or an equivalent third party. Further, the applicant shall provide certification by a Professional Engineer, licensed in the State of Nebraska, that the WECS foundation and tower design is within accepted safety and design standards for the local soil and climate conditions. Such certification may be provided by the manufacturer of the WECS.
- j. CONTROLS AND BRAKES: Each WECS shall be equipped with a redundant braking system, which may include aerodynamic overspeed controls (variable pitch, tip and / or other similar system and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection. Certification of compliance with this requirements shall be provided by the manufacturer.
- k. CODE COMPLIANCE: On-site WECS(s) shall comply with the electrical codes applicable in the County and / or the National Electrical Code.
- l. UTILITY CONNECTION: If the on-site WECS is to be connected to the utility grid, the applicant shall submit written verification that the utility serving the site of the proposed WECS has been notified and that the proposed interconnection complies with the requirements of said utility.

m. ABONDONMENT:

- 1) At such time that an on-site WECS is scheduled to be abandoned or discontinued, the owner of said WECS shall notify the Zoning Administrator of the proposed date of abandonment or discontinuance of operation.
- 2) Upon abandonment or discontinuation of use, the owner of the on-site WECS shall physically dismantle all above ground components of the WECS within ninety (90) days from the date of abandonment or discontinuation of use.
- 3) In the event that an owner of an on-site WECS fails to give notice of abandonment or discontinuation of use, the WECS shall be considered to abandoned or discontinued if the system is out-of-service for a twelve (12) consecutive months. After such twelve (12) consecutive months the Zoning Administrator shall issue a written Notice of Abandonment by certified mail to the owner of the WECS at the address indicated for the site of the WECS in the County Treasurers Office. The owner of the WECS shall have the right to respond to the Notice of Abandonment within thirty (30) days from the date of receipt of such notice to present evidence that the WECS has not been abandoned or discontinued. The Zoning Administrator shall review any such response to determine if the WECS has been abandoned or discontinued. If it is determined that said WECS has not been abandoned or discontinued, the Notice of Abandonment shall be withdrawn and notice of same shall be provided to the owner of said WECS. If, after review of the owner's response, it is determined that said WECS

has been abandoned or discontinued, notice of such finding shall be provided by certified mail to the owner of the WECS.

If the owner of said WECS fails to respond to the Notice of Abandonment or of, after review of any response from the owner, the Zoning Administrator determines that the WECS has been abandoned or discontinued for twelve (12) consecutive months, the owner shall have ninety (90) days from the date of receipt of such notice to dismantle all above ground components of said WECS. If the owner of said WECS fails to dismantle said WECS within the prescribed time period, such shall be considered a violation of the Resolution and shall be subject to the penalties set forth in Section 15 of this Resolution.

- n. PRIOR EXISTING USES: On-site WECS(s) installed prior to the effective date of these regulations shall be exempt from the requirements of these regulations, except when modification of the WECS is proposed. Any on-site WECS which was abandoned or the use of which has been discontinued for a period of twelve (12) consecutive months prior to the effective date of these regulations shall be subject to the notice and dismantling requirements set forth in Item 13 immediately above.

E. UTILITY GRID WIND ENERGY CONVERSION SYSTEM REQUIREMENTS:

1. Application Requirements:

- a. Preliminary Project Application: At the option of the applicant, a preliminary project application may be filed. Such application shall be intended to consider the proposed project from a local land use perspective without submission of the required studies, detailed site plan and formal details of the project. Such application shall place local citizens, neighboring property owners and the general public on notice that a property or series of properties is under consideration for a utility grid wind energy conversion system project and shall give the applicant some awareness of the potential issues associated with the proposed project without having to incur all of the costs associated with a Final Project Application.

The process for review and action on any Preliminary Project Application shall be the same as prescribed for a conditional use / special exception application as set forth in Section 12 of this Resolution.

Action to approve any Preliminary Project does not indicate a final approval of the proposed project, but shall be interpreted to mean that such project may be approved in final form upon positive results from the studies required in the Final Project Application, the acceptance of a detailed site plan and compliance with all other standards and requirements of this regulation.

An applicant for a utility grid WECS project may, at their option, skip the preliminary project application process and proceed directly to a Final Project Application.

- b. Preliminary Project Application Requirements: The following mapped information and other data and exhibits shall be required in a Preliminary Project Application:
- 1) The name(s) of the proposed owners of the utility grid WECS project, the names of the proposed operators of said WECS project, their respective business structures together with evidence of the financial capability of the proposed owners and operators to successfully implement, operate and maintain the proposed project.
 - 2) A general site plan of the project area indicating:
 - a) The proposed boundaries of the property or properties to be included in the project.
 - b) The probable number, tower heights, diameter of rotors and location of such towers.
 - c) The public roadways included in or on the border of the project boundaries.
 - d) The location of occupied buildings within and abutting the proposed project boundaries.
 - e) The proposed location of any meteorological tower(s) to be constructed to evaluate the proposed project area.
 - 3) Color renderings or computer generated visual simulations, in color, showing the probable WECS towers, generators and rotors from at least four (4) viewable angles on the perimeter of the proposed project boundaries.

- c. Preliminary Project Application Review: In reviewing and acting on a preliminary utility grid wind energy conversion system project proposal, the Planning Commission and County Board of Commissioners shall consider the following:
- 1) The likelihood of the proposed project meeting or exceeding the minimum standards and requirements set forth under the Final Project Application section of this regulation.
 - 2) With regard to visual impacts of the proposed project and the typical human reaction of “not in my back yard”, the Planning Commission and County Board of Commissioners shall consider the historic impacts, or lack thereof, of the development of previously popular television reception towers and antennae, satellite dishes, and the current impacts, or lack thereof, of cellular and other communication towers, pivot irrigation systems and electrical transmission towers and lines when considering whether the potential visual impacts of the proposed WECS project on neighboring properties are acceptable in the rural areas of the County.
 - 3) The particular issues of concern with regard to final action on the proposed utility grid WECS project.
- d. Final Project Application: Application for a final Utility Grid WECS Project approval shall include the following information:
- 1) The name(s), address(es) and telephone number(s) of the project applicant(s).
 - 2) The name, address and telephone number of the project owner.
 - 3) The legal description and address of the project.
 - 4) A written narrative describing the proposed Utility Grid WECS Project, including an overview of the project, the generating capacity of the WECS Project, the number, type, height or range of heights of the wind turbines to be constructed including their generating capacity, dimensions and respective manufacturers and a description of ancillary buildings, structures and facilities.
 - 5) Affidavit(s) or similar evidence of agreement between the property owner(s) and the WECS Project owner or operator demonstrating that the WECS Project owner or operator has the permission of the property owner(s) to apply for the necessary permits for construction and operation of the WECS Project.
 - 6) A scaled site plan map or maps of the proposed Utility Grid WECS Project indicating:
 - a) The boundaries of the proposed WECS Project indicating all properties within and adjacent to such boundaries.
 - b) The location of each wind turbine together with setback distances from occupied buildings, utility lines, and public roads.
 - c) The location of public roads within and bordering the proposed WECS Project together with access roads and turnout locations proposed within the project.
 - d) The location of all proposed substations and the location of electrical cabling within the project area.
 - e) The location, size, height and type of all ancillary equipment, buildings and structures proposed within the project area.
 - 7) A decommissioning plan complying with the requirements of this regulation.
 - 8) A shadow flicker analysis in accordance with the requirements of this regulation.

- 9) Evidence of notification of the owners / operators of all existing fixed broadcast, retransmission or reception antennae for radio, television, wireless telephone or other communication systems within five (5) miles of the proposed utility grid WECS project boundaries and an analysis of potential electromagnetic interference.
- 10) Environmental Analysis in accordance with the requirements of this regulation.
- e. Standard and Requirements: Utility Grid WECS projects may be approved as a condition use / special exception in the applicable zoning district when in compliance with the following standards and requirements:

- 1) **SETBACKS:** The setbacks shall be calculated by multiplying the minimum setback requirement number indicated in the table below by the system height and measured from the center of the tower base to property lines, public road right-of-way lines or the nearest wall of an occupied building. In no event shall the setbacks be less than the minimum setbacks required in the applicable zoning district.

MINIMUM SETBACK REQUIREMENTS FOR WIND ENERGY CONVERSION TOWERS			
From occupied buildings on the same premises as the WECS	From occupied buildings on abutting properties	From property lines and utility lines	From public road rights-of-way
0	4	1.1	1.5

In the event any owner of abutting property shall grant an impact easement to the owner of the WECS project, the setback from the boundaries of the abutting owner's property and / or occupied buildings thereon shall be as set forth in said impact easement.

- 2) **SYSTEM HEIGHT:** No limitation.
- 3) **SOUND LEVEL:** The utility grid WECS sound levels shall not exceed fifty-five (55) decibels using the A scale (dBA), as measured at the property lines of abutting properties. The applicant shall provide modeling and analysis that will confirm that the utility grid WECS project will not exceed the maximum permitted sound pressure levels. Modeling and analysis shall conform to IEC 61400 and ISO 9613. If after installation of the project, an abutting property owner shall file a written complaint regard sound pressure levels, the owner of the utility grid WECS project shall cause sound pressure levels to be measured by a qualified third party according to the procedures in the most current version of ANSI S12.18 utilizing a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound pressure level measurements shall be provided to the Zoning Administrator within 30 days of the date of notice to the utility grid WECS project owner of the sound level complaint.
- 4) **SHADOW FLICKER:** The utility grid WECS towers shall be sited in a manner that does not result in shadow flicker impacts more than thirty (30) hours per year on any occupied building on abutting properties. The applicant shall provide an analysis which shall identify the location(s) of shadow flicker from sun-rise to sun-set over the course of a year which would impact occupied buildings on property abutting the project boundaries to verify that the standard set forth herein shall be complied with.
- 5) **SIGNS:** There shall be no signs or logos of any type allowed in the WECS tower or wind generator with the exception of warning signs and manufacturer identification. Visible high voltage warning signs shall be placed on all pad-mounted transformers and substations. Emergency contact signs shall be placed at or near the project main operation and maintenance building and the primary entrance to the project area. The sign at the primary entrance shall also warn of the potential for falling ice.
- 6) **AVIATION:** Any utility grid WECS project proposed near an airport shall comply with applicable Federal Aviation Administration regulations.
- 7) **VISUAL IMPACTS:**
- a) All WECS towers shall be of monopole design.
- b) The color of the on-site WECS shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends with the surrounding environment. Approved colors shall include white, off-white or gray or such other color that the applicant can demonstrate will blend with the surrounding environment and the sky.

- c) The on-site WECS shall not be artificially lit in any manner unless lighting is required by the Federal Aviation Administration, in which case shall provide a copy of the FAA determination and the required markings and /or lights. Red lights shall be used during nighttime illumination to reduce impacts on abutting properties.
- 8) ACCESS: Wind turbine towers shall not be climbable up to fifteen (15) feet above the ground surface and all access doors to wind turbines and electrical equipment shall be locked or fenced, as appropriate, to prevent entry by non-authorized persons.
- 9) DESIGN SAFETY: Utility grid WECS(s) shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI) and the National Electrical Commission (NEC). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (GL), or an equivalent third party. Further, the applicant shall provide certification by a Professional Engineer, licensed in the State of Nebraska, that the WECS foundation and tower design is within accepted safety and design standards for the local soil and climate conditions. Such certification may be provided by the manufacturer of the WECS.
- 10) CONTROLS AND BRAKES: Each WECS shall be equipped with a redundant braking system, which may include aerodynamic overspeed controls (variable pitch, tip and / or other similar system and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection. Certification of compliance with this requirements shall be provided by the manufacturer.
- 11) CODE COMPLIANCE: All WECS(s) shall comply with the electrical codes applicable in the County and / or applicable State codes and / or the National Electrical Code.
- 12) ELECTROMAGNETIC INTERFERENCE: The project owner shall notify the owners / operators of all existing fixed broadcast, retransmission or reception antennae for radio, television, wireless telephone or other communication systems within five (5) miles of the proposed utility grid WECS project boundaries upon application. No utility grid WECS project shall be located where its proximity to existing fixed broadcast, retransmission or reception antennae for radio, television, wireless telephone or other communication system would produce electromagnetic interference with signal transmission or reception unless the applicant shall provide a replacement signal to the affected party(s) that will restore the transmission or reception to at least the level present before operation of the WECS project.
- 13) ENVIRONMENTAL IMPACT: The applicant shall have a third party, qualified professional conduct and analysis to identify and assess any potential impacts on wildlife and endangered species and public conservation lands, with particular emphasis on areas where birds or bats are highly concentrated, significant bird migration flyways and areas that have landscape features known to attract large numbers of raptors.
- 14) DECOMMISSION PLAN: The applicant shall submit a decommissioning plan, which shall include at a minimum:
- a) The anticipated life of the project,
 - b) The estimated decommissioning costs of removing all above ground facilities and underground improvements to a depth of three (3) feet, net of salvage value, in current dollars,
 - c) The method of ensuring that funds will be available for decommissioning,
 - d) The anticipated manner in which the project will be decommissioned, and
 - e) The time period in which the decommissioning shall be completed.

- 15) PUBLIC ROAD IMPACTS: The applicant shall, in coordination with representatives from York County and other appropriate jurisdictions, conduct a pre-construction survey of road and bridge conditions which shall include photographs and written agreement documenting the condition of the public roads, to determine all county, township or municipal roads or streets to be used for the purposes of transporting WECS, substation parts, concrete and /or equipment for construction, operation and maintenance of the WECS and to determine all applicable weight and size permits from the impacted jurisdictions prior to construction. The owner of the WECS shall be responsible for restoring the roads, streets and bridges to pre-construction conditions where the impacts on such roads, streets and bridges is beyond normal wear under pre-existing conditions.
- 16) EMERGENCY SERVICES: The applicant shall provide a copy of the project description and site plan to the local fire department and rescue service having jurisdiction over the project area and shall coordinate with such local entities in the development of an emergency response plan.
- 17) PUBLIC INQUIRIES AND COMPLAINTS: The owner and operator of the utility grid WECS project shall maintain a publicly available telephone number and identify a responsible person or position for the public to contact with inquiries or complaints throughout the life the project. Said owner and operator shall make a reasonable effort to respond to the public's inquiries and complaints and shall maintain a record of such inquiries and complaints, together with actions taken and dates thereof and shall make such records available to the Zoning Administrator upon request.

One (1) copy of the York County Zoning Resolution 50, including the amendments contained herein shall be kept on file with the York County Clerk and available for public inspection during regular office hours. (Reference Neb. Rev. Stat. § 23-114, §23-114.03, and §23-164 and §23-165.)

That any other resolution or section passed and approved prior to the passage, approval, and publication of this ordinance and in conflict with this provision is hereby repealed.

This resolution shall take effect and be in full force from and after its passage, approval, and publication as required by law.

Dated this 21st day of April, 2009.

Moved by Neujahr, seconded by Bulgrin to reject item #4 the Resolution for informational public hearing on permitted use new or expanded feedlots with the capacity of 300 or more units; roll call: yeas, Neujahr, Bulgrin, Bergen and Brown; nays, none; Bredenkamp absent; motion carried.

Orval Stahr gave a first quarter Zoning Administrator Report.

Following the meeting, the Board conducted the quarterly visit to the County Jail.

The Chairman declared the meeting adjourned at 2:50 p.m. The next meeting will be May 5, 2009 at 8:30 a.m. with Elected Officials/Department Heads; 9:20 a.m. with the General Assistance Administrator and 9:35 a.m. in the County Commissioners Room, lower level of the Courthouse for the regularly scheduled meeting.

Augustus M. Brown, Jr., Chairman
York County Commissioners

Cynthia D. Heine, County Clerk
York, Nebraska